

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Dea'Shawn Harrison)	C/A No. 9:23-00584-RMG-MHC
Plaintiff,)	
)	
v.)	
)	ORDER
Regina A. Gunnells; L. C. Knight; Captain S.)	
G. Branch; Major Brown; Amanda M.)	
Leviner; Nurse Hazel; Officer Laretta Duke;)	
Deon Cobbs; Terry Donial Woods, Jr.;)	
Corporal Julius Bean,)	
)	
Defendants.)	
)	

This a civil action filed by a pretrial detainee. Under 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge.

REPORT AND RECOMMENDATION – VACATED:

In a report and recommendation entered September 7, 2023, it was recommended that this action be summarily dismissed without prejudice because Plaintiff failed to bring his case into proper form. Plaintiff has now filed some,¹ but not all, of the necessary proper form items. He also filed objections in which he appears to argue that he did not receive all of the necessary forms to bring his case into proper form. ECF No. 13. Therefore, the Clerk of Court is directed to **VACATE** the report and recommendation (ECF No. 10).

PAYMENT OF FILING FEE:

By filing this case, Plaintiff has incurred a debt to the United States of America in the amount of \$350. *See* 28 U.S.C. § 1914. This debt is not dischargeable in the event Plaintiff seeks relief under the bankruptcy provisions of the United States Code. *See* 11 U.S.C. § 523(a)(17). A prisoner is permitted to file a civil action without prepayment of fees or security therefor under 28 U.S.C. § 1915. Plaintiff has submitted an Application to Proceed Without Prepayment of Fees and Affidavit (Form AO 240) to this court pursuant to 28 U.S.C. § 1915(a)(1), which is construed as a

¹ Plaintiff submitted additional information as to his motion for leave to proceed without prepayment of fees; a summons form listing Defendants Gunnells, Branch, Brown, Hazel, Duke, Cobbs, Woods, and Bean; and USM-285 forms for Defendants Bean, Woods, Cobbs, Duke, Hazel, Brown, Branch, Knight, and Gunnells. As discussed further below (in the second proper form order section), Plaintiff failed to submit a summons form for Defendants Knight and Leviner and failed to submit a Form USM-285 for Defendant Leviner.

Motion for Leave to Proceed *in forma pauperis*. A review of the Motion reveals that Plaintiff does not have the funds to prepay the filing fee.

Plaintiff's Motion for Leave to Proceed *in forma pauperis* (ECF No. 2) is **GRANTED**.

TO PLAINTIFF (SECOND PROPER FORM ORDER):

This case is not in proper form for service at this time. **If Plaintiff does not bring this case into proper form within the time permitted by this Order, this case may be dismissed for failure to prosecute and failure to comply with an order of this court under Rule 41 of the Federal Rules of Civil Procedure.**

Under General Order *In Re: Procedures in Civil Actions Filed by Prisoner Pro Se Litigants*, No. 3:07-mc-5014-JFA (D.S.C. Sept. 18, 2007), the undersigned is giving Plaintiff **twenty-one days** from the date this Order is entered (plus three days for mail time) to:

1) Submit a summons form listing Defendants L. C. Knight and Amanda Leviner. In the space following "TO: (Defendant's name and address)," Plaintiff is required to provide a complete name and a full address where each of these Defendants can be served pursuant to Rule 4 of the Federal Rules of Civil Procedure. Plaintiff's complete name and full address must be provided in the blank section following "plaintiff or plaintiff's attorney, whose name and address are." Handwritten information must be printed and legible. **Nothing else should be written by Plaintiff on either the front or back of the summons or in the margins.** A blank form is attached for Plaintiff's use.

2) Complete, sign, and return a Form USM-285 for Defendant Leviner. Defendant's name and **street** address should be placed in the spaces preceded by the words, "SERVE AT." Plaintiff's name and address should be placed in the space designated, "SEND NOTICE OF SERVICE COPY TO . . .," and Plaintiff should sign where the form requests, "Signature of Attorney or other Originator...." Plaintiff must provide Defendant's complete **street** address on the form (not a post office box address). Plaintiff must provide, and is responsible for, information sufficient to identify Defendant on the Form USM-285. The United States Marshal cannot serve an inadequately identified defendant, and an unserved defendant may be dismissed as a party to this case. One blank Form USM-285 is attached for Plaintiff's use.

No process shall issue until the items specified above have been reviewed by the assigned Magistrate Judge.

Plaintiff must place the civil action number (9:23-00584-RMG-MHC) on any document provided to the court pursuant to this Order. **Any future filings in this case must be sent to the Clerk of Court, Post Office Box 835, Charleston, South Carolina 29402.** All documents requiring Plaintiff's signature shall be signed with Plaintiff's full legal name written in Plaintiff's own handwriting. Pro se litigants shall **not** use the "s/typed name" format used in the Electronic Case Filing System. In all future filings with this court, Plaintiff is directed to use letter-sized (8½ inches by 11 inches) paper only, to write or type text on one side of a sheet of paper only, and not

to write or type on both sides of any sheet of paper. Plaintiff is further instructed not to write to the edge of the paper, but to maintain one-inch margins on the top, bottom, and sides of each paper submitted.

Plaintiff is a pro se litigant. Plaintiff's attention is directed to the following important notice:

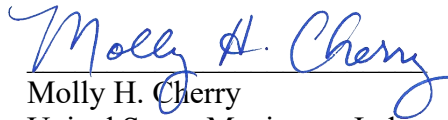
You are ordered to always keep the Clerk of Court advised **in writing** (Post Office Box 835, Charleston, South Carolina 29402) if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If as a result of your failure to comply with this Order, you fail to meet a deadline set by this court, **your case may be dismissed for violating this Order.** Therefore, if you have a change of address before this case is ended, you must comply with this Order by immediately advising the Clerk of Court in writing of such change of address and providing the court with the docket number of all pending cases you have filed with this court. Your failure to do so will not be excused by the court.

TO THE CLERK OF COURT:

The Clerk shall mail a copy of this Order and the proper form documents (a summons form and a Form USM-285) to Plaintiff. If Plaintiff fails to provide the proper form items specified above to the Clerk of Court within the period prescribed in this Order, the Clerk of Court may forward the file to the assigned United States District Judge to determine whether to enter an order of dismissal. *See In Re: Procedures in Civil Actions Filed by Prisoner Pro Se Litigants*, No. 3:07-mc-5014-JFA. If, however, Plaintiff provides this court with the proper form items specified above, the Clerk of Court should forward the file to the assigned Magistrate Judge to determine if service of process should be authorized.

The Clerk of Court shall not enter any change of address submitted by Plaintiff which directs that mail be sent to a person other than Plaintiff unless that person is an attorney admitted to practice before this court who has entered a formal appearance.

IT IS SO ORDERED.


Molly H. Cherry
United States Magistrate Judge

September 20, 2023
Charleston, South Carolina